IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 11518 of 2003

Between:

1 Mr. C. Shankar Reddy S/o late Sri. C. Vengal Reddy
R/o S2/C, Schivalaya Nagar, Vansathalipuram,
Hyderabad
2 A. Prasad, s/o late Sri. A. Rajeshwar Rao
Secretariat, Hyderabad
3 A. Chandrasekhar rao s/o late Sri. A. Satyanarayana Murthy
Department, Sectrtariat, Hyderabad
4 S. Thrimurthulu s/o Padaveeraju
Department, Sectrtariat, Hyderabad
5 Smt. Prameela Rani w/o M.V. Brahmananda rao
Sl 39, Erramanzil Colony, Hyderabad
6 J. Ramesh Singh s/o Tulja Singh
Social Welfare Department, Secretariat, Hyderabad
7 R. Sambasiva Rao S/o late Venkiah
Department Plot No. 468, Pupalaguda, Sriramnagar Colony,
Hyderabad
8 K. Pochiah s/o Banaiah, Secretariat, Hyderbad
9 G. Jacob s/o Jhon, Panchayat Raj Department, Secretariat,
Hyderabad
10 BRM. Sarma S/o B. Ram Mohan rao
Department, I.C. 226, Erramanzil Colony, Hyderabad
11 K. Ayyappa Reddy s/o late K. Venkat Reddy,
Secretariat, Hyderabad

..... PETITIONERS

AND

1 The Principal Secretary to Government, Agriculture and Co-operation Department, Government of Andhra Pradesh, Secretariat Buildings, Hyderabad
2 The Secretary to Government, General Administration Department (Service), Government of Andhra Pradesh, Secretariat Buildings, Hyderabad

3 The Additional Director General of Police, CID., A.P., Hyderabad
4 The Commissioner for Co-operation and Registrar of Co-operative Societies, A.P., Hyderabad
5 The Secretary to Govt., Finance Department, Secretariat, Buildings, Hyderabad
6 The Secretary to Government Revenue Department, Secretariat Buildings, Hyderabad
7 The Secretary to Government, Municipal Administration & Urban Development, Secretariat Buildings, Hyderabad
8 The Secretary to Government Health, Medical and Family Welfare Department, Secretariat Buildings, Hyderabad
9 The Secretary to Government Health M Medical and Family Welfare Department, Secretariat Buildings, Hyderabad
10 The principal Secretary to Govt Transport roads & Buildings Department, Secretariat Buildings, Hyderabad
11 The Secretary to Government Panchayat Raj & Rural Development Department, Secretariat Buildings, Hyderabad
12 The Secretary to Government Home Department, Secretariat Buildings, Hyderabad
13 The Secretary to Government, Irrigation Department, Secretariat Buildings, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the first and third respondents herein in initiating action against the petitioners pursuant to the proceedings of the first respondent dated 7-6-2003 as unjust illegal and contrary to law and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.RAMESH KATIKINENI

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following ORDER:

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Heard both sides. Both the counsel requested to hear the main writ petition. Hence, the main writ petition is taken up for hearing.

The petitioners, including the President of the Society and other members thereon, filed this writ petition *inter alia* seeking a Writ of Mandamus declaring the impugned notice dated 07.06.2003 of the first respondent as unjust, illegal and contrary to law.

The main grievance of the petitioners is that having regard to the allegations made, an enquiry was conducted under Section 51 of the Andhra Pradesh Cooperative Societies Act, 1964 (7 of 1964) and basing on the report surcharge proceedings have been issued. Against which, a regular appeal has been filed before the Cooperative Tribunal and obtained Stay of all further proceedings in I.A.No.1392 of 2002 in I.A.No.1193 of 2002 in CTA No.182 of 2002 dated 06.01.2003. Even though the stay still exists, the impugned notice dated 7-6-2003 issued by the first respondent asking for fresh enquiry once again, is wholly unsustainable.

Having regard to the submissions made by both the counsel and also on perusal of the material on record, it is evident that there is no denial of the fact that in pursuance of the surcharge proceedings a regular appeal is pending before the appellate Tribunal, wherein there is already stay. In spite of the same, the respondents have issued fresh notice, which is *prima facie* unsustainable. Once the proceedings have already been initiated and the same were pending before the concerned authority, the petitioners cannot be penalized second time for the very same subject matter.

In the circumstances, the writ petition is allowed and the impugned notice is set aside.

26.07.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, the twenty six day of July, Two Thousand and Four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 The Principal Secretary to Government, Agriculture and Co-operation Department, Government of Andhra Pradesh, Secretariat Buildings, Hyderabad
2 The Secretary to Government, General Administration Department (Service), Government of Andhra Pradesh, Secretariat Buildings, Hyderabad
3 The Additional Director General of Police, CID., A.P., Hyderabad
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Department, Secretariat Buildings, Hyderabad
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12 The Secretary to Government Home Department, Secretariat Buildings, Hyderabad
13 The Secretary to Government, Irrigation Department, Secretariat Buildings, Hyderabad

14 Two CCs to G.P. for Cooperation, High Court of A.P. Buildings, Hyderabad (OUT)

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